REMARKS

Claims 1, 2, 5-12, 15-22, 25-27 and 30 are pending in the present application.

Claims 1, 2, 5-12, 15-22, 25-27 and 30 are rejected.

Claims 1, 11, 21 and 26 were amended.

Reconsideration of the claims is respectfully requested.

CLAIM REJECTION UNDER 35 U.S.C. § 103

Claims 1, 2, 5-12, 15-22, 25-27 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,687,901 to *Imamatsu*, hereinafter "Imamatsu" in view of U.S. Patent No. 6,928,579 to *Äijä, et al.*, hereinafter "Äijä." The Applicants respectfully traverse the rejection.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-127 (8th ed. rev. 7 July 2008). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a prima facie case of obviousness, three basic criteria must be met: First, there must be some reason – such as a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art – to modify the reference or to combine reference teachings. MPEP § 2142, pp. 2100-127 to 2100-128 (8th ed. rev. 7 July 2008); MPEP § 2143, pp. 2100-128 to 2100-139; MPEP § 2143.01, pp. 2100-139 to 2100-141. Second,

there must be a reasonable expectation of success. MPEP § 2143.02, pp. 2100-141 to 2100-142 (8th ed. rev. 7 July 2008). Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. MPEP § 2143.02, pp. 2100-141 to 2100-142 (8th ed. rev. 7 July 2008).

Independent Claim 1 has been amended to recite that the journal is configured to be used also in a recovery of an error during the download of the software update file from the wireless network. This feature is not found in Imamatsu or Äijä. The Office Action suggests that the version management domain 42 in Imamatsu teaches a journal. However, it is clear from Figures 7-9 and columns 8, 11 and 12 of Imamatsu that the flags of the version management domain 42 are only updated during the software updating process (Figure 9). There is nothing in Imamatsu that teaches or suggests that the version management domain 42 is used or updated during the software download process shown in Figures 7 and 8. Since the version management domain 42 is not updated during the software download process, it certainly could not be used in the recovery of an error during the software download process. Thus, Imamatsu fails to teach this feature of Claim 1. Äijä fails to correct the deficiency of Imamatsu.

As such, independent Claim 1 is patentable over Imamatsu or Äijä, both separately and in combination. Independent Claims 11, 21 and 26 recite features analogous to those features emphasized in traversing the rejection of Claim 1 and, therefore, are also patentable over the cited references. Claims 2 and 5-10 depend from Claim 1, Claims 12 and 15-20 depend from Claim 11, Claims 22 and 25 depend from Claim 21, and Claims 27 and 30 depend from Claim 26. These

claims are patentable at a minimum due to their dependence from allowable base claims.

Accordingly, the Applicants respectfully request the Examiner to withdraw the § 103 rejection with respect to these claims.

CONCLUSION

As a result of the foregoing, the Applicants assert that the remaining claims in the Application are in condition for allowance, and respectfully requests that this Application be passed to issue.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at ***jmockler@munckcarter.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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